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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,671	06/15/2001	Youichirou Sugino	04558/050001	9498
38834	7590	10/18/2004	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			DICUS, TAMRA	
			ART UNIT	PAPER NUMBER
			1774	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,671

Applicant(s)

SUGINO ET AL.

Examiner

Tamra L. Dicus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 21-35 and 42-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 21-35, 42-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The objection to claim 42 is withdrawn due to applicant's amendment.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18, 21-35, and 42-47 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,361,838 to Miyatake et al. in view of USPN 6,064,457 to Aminaka for reasons of record as previously set forth mailed 06/03/2004.

Regarding the new limitation of a polarizer "consisting essentially of" a stretched hydrophilic polymer film is disclosed by the prior art of record. Changing the language from "formed with" to "consisting essentially of" does not change overcome the prior art because Miyatake teaches the same materials, e.g. polarizer of a stretched hydrophilic polymer film and Aminaka teaches the required thickness range from 1 to 500 microns.

Response to Arguments

3. Applicant's arguments filed 08-05-04 have been fully considered but they are not persuasive. Applicant argues Miyatake does not teach a stretched hydrophilic polymer film, but a resin film with minute liquid crystalline regions and thus cannot teach the shrinkage properties to help reduce brightness irregularities upon heating. The Applicant has not persuasively argued because Miyatake explicitly teaches the film is stretched at col. 8, line 10 and line 43 teaching

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polarizing films comprise retardation stretched films of polyvinyl alcohol (see Abstract and col. 8, lines 1-25 and lines 40-45 of Miyatake) in LCDs. Miyatake does not teach how thick the films are, but Aminaka, an analogous art, teaches using polarizers in LCDs, having a thickness anywhere from 1 up to 500 microns. Per Applicant's disclosure, to obtain the claimed shrinkage force values is a calculation that depends upon a suitable thickness, which disclose a thickness of at most 25 microns (see disclosure page 2, lines 1-29), which Aminaka teaches. Applicant has merely argued the shrinkage force requirements cannot occur but has presented no objective evidence to disprove the teachings of Miyatake in view of Aminaka. The burden is upon Applicant to prove the polarizer taught by the prior art cannot exhibit the measured properties such as the claimed shrinkage force requirements. Thus, until Applicant presents evidence to the contrary, the rejection will stand. Further in response to applicant's argument that Miyatake nor Aminaka fails to suggest helping reduce brightness irregularities upon heating, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Applicant argues Miyatake teaches away from forming the polarizer with a dye and stretched hydrophilic polymer film by pointing to col. 7, lines 45-46. Applicant has not persuasively argued because Miyatake clearly and explicitly teach a specific example of the polarizing film includes iodine or a dichroic substance, e.g. a dichroic dye, onto a hydrophilic polymer film such as PVA and stretching the film at col. 8, lines 17-24. The same dichroic dyes are used by Applicant as per the instant disclosure, on page 4, lines 29-32. The citing applicant pointed to in col. 7 teaches the optical film can be used as various types of polarizers teaching an advantage,

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not disadvantage as Applicant alleges. Applicant argues the method steps of instant claims 42 and 52, however, as previously set forth, method steps included in a product claim are product by process limitations and are given little patentable weight. The same structure and materials are provided, thus the Applicant's product and the prior art product is the same. See again MPEP 2113. If Applicant desires to examine process claims, the Applicant may do so in a new case.

CONCLUSION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

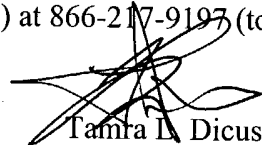
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is 571-272-1519. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tamra L. Dicus
Examiner
Art Unit 1774

10/12/04


RENA DYE
SUPERVISORY PATENT EXAMINER

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10/14/04